

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JOHNNIE L. McCULLOUGH,

Plaintiff,

v.

**MICHAEL J. ASTRUE,
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

CASE NO. 4:06CV3050

MEMORANDUM AND ORDER

This matter is before the Court on the Application for Attorney Fees (Filing No. 48) filed by the Plaintiff, Johnnie L. McCullough. The application for attorney fees is filed pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), and is supported by an itemization of services submitted by Stephen Speicher, Plaintiff's attorney (Filing No. 50, p. 4-10). The Court also notes the Response submitted by the Defendant, Michael J. Astrue, Commissioner of Social Security (Filing No. 51).

The Court entered Judgment reversing the matter and remanding the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). (Filing Nos. 43, 44)

Subsequently, the Plaintiff's attorney filed an application for attorney fees in the amount of \$7,673.27, and paralegal services in the amount of \$916.50. The parties then jointly agreed to an award of attorney and paralegal fees in the amount of \$7,500.00 (Filing No. 51). Because the requested hourly rate exceeds the usual rate of \$125 per hour established in the 1995 amendment to 28 U.S.C. § 2412(d)(2)(D)(2)(A), the Plaintiff's attorney has submitted information regarding the increase in cost of living since 1995. The Court determines, pursuant to § 2412(d)(2)(D)(2)(A), that an increased cost of living

justifies the fee to the extent that the fee agreed upon by the parties exceeds the usual rate.

After reviewing the record, the briefs, the supporting Affidavits, and the applicable law, the Court finds that an award of attorney fees is appropriate in the amount agreed upon by the parties. The Court will order payment of fees to the Plaintiff's attorney.

IT IS ORDERED:

1. The Plaintiff's Application for Attorney Fees (Filing No. 48) is granted in part and denied in part; and
2. The Plaintiff is awarded attorney fees in the amount of \$7,500.00, payable to Stephen Speicher, Plaintiff's attorney.

DATED this 10th day of June, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge